



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

SB 18-040

FISCAL NOTE

Drafting Number: LLS 18-0259
Prime Sponsors: Sen. Lambert; Jahn
Rep. Singer

Date: February 2, 2018
Bill Status: Senate SVMA
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Bill Topic: SUBSTANCE USE DISORDER HARM REDUCTION

**Summary of
Fiscal Impact:**

- | | |
|--|--|
| <input checked="" type="checkbox"/> State Revenue | <input type="checkbox"/> TABOR Refund |
| <input checked="" type="checkbox"/> State Expenditure (<i>minimal</i>) | <input checked="" type="checkbox"/> Local Government |
| <input type="checkbox"/> State Transfer | <input type="checkbox"/> Statutory Public Entity |

This bill establishes a pilot program for a single supervised injection facility in Denver for injection drug users, and enacts several other harm reduction measures concerning clean syringe exchange and opiate antagonists. This bill will increase and decrease state workload for certain state agencies, and will reduce state revenue by a minimal amount. It will also increase workload and costs for local governments. The bill creates both short-term and ongoing impacts.

**Appropriation
Summary:** No appropriation is required.

**Fiscal Note
Status:** The fiscal note reflects the introduced bill, which was recommended by the Opioid and Other Substance Use Disorders Interim Study Committee.

Table 1
State Fiscal Impacts Under SB 18-040

| | | FY 2018-19 | FY 2019-20 |
|--------------|-----------------------------|---------------------|---------------------|
| Revenue | General Fund and Cash Funds | less than (\$5,000) | less than (\$5,000) |
| Expenditures | | - | - |
| Transfers | | - | - |

Summary of Legislation

This bill enacts several harm reduction measures concerning opioid and injection drug use. First, the bill establishes a pilot program in the City and County of Denver for a single supervised injection facility at which persons may inject previously obtained drugs under medical supervision. Civil and criminal immunity is granted to persons using drugs at the site and to staff and volunteers working at the facility. The supervised injection facility must be approved by the Denver Board of Health and may be operated by a contractor under the supervision of the Denver Public Health Agency. The pilot program ends on September 1, 2022.

Second, the bill allows hospitals to serve as clean syringe exchange program locations. Civil immunity is granted to individuals provided a clean syringe under a hospital-based exchange program. Third, the bill allows school districts and nonpublic schools to develop policies for obtaining opiate antagonists and allowing trained school employees to use these drugs in the event of an opioid-related overdose event. Lastly, the bill requires the Colorado Commission on Criminal and Juvenile Justice (CCJJ) in the Department of Public Safety to study criminal sentencing relating to opioids and synthetic opiates and present its findings in its annual report.

Comparable Crime and Assumptions

Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or changes an element of the existing crime that creates a new factual basis for the offense. This bill provides immunity from offenses concerning drug paraphernalia for participants, employees, and volunteers at the pilot program location.

Over the last three years, there were 23,888 cases filed concerning possession of drug paraphernalia (a drug petty offense); 21 cases concerning the manufacture, sale, or delivery of drug paraphernalia (a level 2 drug misdemeanor); and 1 case concerning the advertisement of drug paraphernalia (a level 2 drug misdemeanor). For possession of drug paraphernalia specifically, there were 2,584 persons convicted for this offense. In terms of the racial breakdown of these convictions, 2,289 were white, 141 were black, 118 were Hispanic, 23 were other/unknown, 7 were Asian, and 6 were Native American; for gender, 1,757 were male, 825 were female, and 2 were unknown.

Given the single location under the pilot program, any impact on drug paraphernalia possession-related offenses is assumed to be minimal; the bill is not expected to reduce the number of cases involving manufacture, sale, delivery, or advertisement of drug paraphernalia. Further, since establishment of the supervised injection facility and new hospital-based clean syringe exchange programs will take time to establish, fiscal impacts for this bill are assumed to start after July 1, 2018.

State Revenue

Beginning in FY 2018-19, this bill is anticipated to decrease state revenue by less than \$5,000 per year. This impact will continue through FY 2022-23 when the pilot program ends.

Criminal fines. The bill is anticipated to decrease state revenue by less than \$5,000 per year, credited to the Fines Collection Cash Fund in the Judicial Department. The penalty for the drug petty offense of possession drug paraphernalia is a fine of up to \$100. Given that the courts have discretion in setting the fine amount and the low number of fines imposed by the courts in recent years, the fiscal note assumes that any revenue reduction is likely to be less than \$5,000 per year.

Court and administrative fees. The bill will also decrease state fee revenue from court fees to the General Fund and various cash funds by a minimal amount. Fees are imposed for a variety of court-related costs, which vary based on the offense but may include probation supervision, drug or sex offender surcharges, victim compensation, and late fees, among others. Some fee revenue is shared with local governments; refer to the Local Government Impact section for additional information.

State Expenditures

The bill increases workload for some state agencies, while also potentially reducing workload and costs for other agencies and the courts. These impacts are discussed below.

Department of Public Health and Environment. The Department of Public Health and Environment (CDPHE) will potentially have increased workload starting in FY 2018-19 to monitor additional syringe exchange programs operated by hospitals and to process grant applications if these new programs seek available state funding. It is assumed this workload will be minimal and that grants for syringe exchange programs will be awarded within existing appropriations.

Department of Public Safety. The CCJJ will have additional workload in FY 2018-19 only to study criminal sentencing for synthetic opiates and to include recommendations in their annual report. The Department of Public Safety may have additional workload to provide additional staff support to the CCJJ. Given that this is an ongoing commission that looks at a broad spectrum of criminal justice issues, it is assumed that this work can be accomplished within existing appropriations.

Judicial Department. The trial courts in the Judicial Department may have a decrease in workload to the extent that criminal immunity for participants, employees, and volunteers at the supervised injection facility reduces the number of drug paraphernalia-related cases. This impact will begin in FY 2018-19 and continue until FY 2022-23 when the pilot program is repealed. This decrease is assumed to be minimal and no change in appropriations is required.

Agencies providing representation to indigent persons. Workload and costs for the Office of the State Public Defender and the Office of the Alternate Defense Counsel will minimally decrease between FY 2018-19 and FY 2022-23 to the extent that there are fewer drug paraphernalia cases in which representation is required under the bill. No change in appropriations to these agencies is required.

Local Government

The bill has several impacts on local governments and school districts as described below.

Supervised injection facility. The City and County of Denver will have additional costs and workload associated with the supervised injection facility pilot program starting in FY 2018-19. The Denver Board of Health will be required to seek stakeholder feedback about the facility and the Denver Public Health Agency will have costs to establish the facility, if approved by the Denver Board of Health, and to oversee the contracted organization that operates the facility. Denver may have additional law enforcement costs to monitor the area near the supervised injection facility.

Denver County Court and Denver District Attorney. The bill decreases workload and costs for the Denver County Court, managed and funded by the City and County of Denver, and for the Denver District Attorney's Office to the extent the bill reduces the number of drug paraphernalia cases. This impact is assumed to be minimal.

School districts. The bill increases costs and workload for training, policy development, and obtaining opiate antagonists for schools and school districts that decide to allow school employees to administer these drugs. The decision to allow employees to administer opiate antagonists is at the discretion of schools and school districts.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature. It applies to offenses committed on or after this date.

State and Local Government Contacts

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| Corrections | Counties | District Attorneys |
| Education | Higher Education | Judicial |
| Law | Local Affairs | Municipalities |
| Public Safety | School Districts | Public Health and Environment |
| Sheriffs | | |